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9
10 **UNITED STATES DISTRICT COURT**

11
12 **NORTHERN DISTRICT OF CALIFORNIA**

13
14 **SAN FRANCISCO DIVISION**

15 NORTH AMERICA PHOTON INFOTECH,
16 LTD., a Mauritius private limited company,

17 Case No.:

18 Plaintiff,

19
20 **DEFENDANT'S NOTICE OF REMOVAL
21 OF ACTION**

22 v.

23 [Removal from the Superior Court of the State
24 of California, County of San Francisco, Case
25 No. CGC-18-571774]

26 DISCOVERORG, LLC, a Delaware limited
27 liability company, and DOES 1-25,

28 Defendants.

Action Filed: December 3, 2018; Amended
Complaint Filed: January 29, 2019

1 **TO THE CLERK OF THE ABOVE-TITLED COURT AND TO PLAINTIFF**
2 **NORTH AMERICA PHOTON INFOTECH, LTD, ACTING BY AND THROUGH ITS**
3 **COUNSEL OF RECORD:**

4 **PLEASE TAKE NOTICE THAT** Defendant DiscoverOrg, LLC (“Defendant” or
5 “DiscoverOrg”) hereby removes this action—with reservation of all its rights and defenses—from
6 the Superior Court of the State of California for the County of San Francisco, Case No. CGC-18-
7 571774, to the United States District Court for the Northern District of California pursuant to
8 pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

9 **I. SUMMARY OF PLAINTIFF’S ALLEGATIONS AND GROUNDS FOR**
10 **REMOVAL**

11 1. On or about December 3, 2018, Plaintiff North America Photon Infotech, Ltd.
12 (“Plaintiff” or “North America Photon”) filed a Complaint for breach of contract in the Superior
13 Court of California, County of San Francisco. The matter was assigned case number CGC-18-
14 571774.

15 2. On or about January 29, 2019, Plaintiff filed a First Amended Complaint in the
16 Superior Court of California, County of San Francisco.

17 3. Plaintiff personally served DiscoverOrg on February 6, 2019 at 805 Broadway
18 Street, Suite 900, Vancouver, Washington 98660. Attached hereto as Exhibit A is a true and
19 correct copy of the Proof of Service Summons.

20 4. Pursuant to 18 U.S.C. § 1446(a), true and correct copies of all process, pleadings,
21 and orders served upon DiscoverOrg are attached as Exhibit B, which includes the Summons,
22 Civil Case Cover Sheet, First Amended Complaint, Superior Court of California, County of San
23 Francisco Alternative Dispute Resolution Information Package along with form Stipulation to
24 Alternative Dispute Resolution (ADR), and Notice to Plaintiff.

25 5. For completeness, attached are also true and correct copies of the Complaint,
26 Summons, and Civil Case Cover Sheet filed by Plaintiff on December 3, 2018 in the Superior
27 Court of the State of California for the County of San Francisco, attached hereto as Exhibit C.

28 6. To date, none of the Doe Defendants have been identified.

1 **II. THIS COURT HAS JURISDICTION AND REMOVAL IS PROPER**

2 7. Pursuant to 28 U.S.C. §1332, this Court has original jurisdiction over this action
3 based on diversity of the parties and the amount of controversy in excess of \$75,000.

4 8. Upon information and belief, and based upon the allegations set forth in the First
5 Amended Complaint, Plaintiff “is a Mauritius private limited company with its principal place of
6 business in Quatre Bornes, Mauritius.” (Ex. B, First Amend. Compl. ¶ 2).

7 9. On December 6, 2017, North America Photon Infotech Ltd. filed a Certificate of
8 Surrender with the Secretary of State for the State of California surrendering its authority and
9 rights to transact business in the State of California. The Certificate of Surrender lists North
10 America Photon Infotech Ltd.’s address as Level 7, Tower 1, Nexteracom, Cybercity, Ebene,
11 Mauritius 72201.

12 10. For purposes of determining jurisdiction pursuant to 28 U.S.C. § 1332, Plaintiff is
13 a citizen of Mauritius.

14 11. Defendant DiscoverOrg is a limited liability company located in the State of
15 Delaware with its principle place of business at 805 Broadway Street, Suite 900, Vancouver,
16 Washington 98660-3277. For purposes of determining jurisdiction pursuant to 28 U.S.C. § 1332,
17 DiscoverOrg is a citizen of the States of Delaware and Washington.

18 12. As set forth in the First Amended Complaint, this action was brought for (1)
19 breach of contract, (2) fraud or intentional misrepresentation, and (3) unfair competition.

20 13. Plaintiff’s First Amended Complaint seeks damages in the amount of \$47,920 for
21 the First Cause of Action and \$150,000 for the Second Cause of Action. (Ex. B, First Amend.
22 Compl. at 6).

23 14. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) for the
24 reasons set forth in Paragraphs 7 – 13 because this action is between citizens of different states
25 and the amount in controversy exceeds \$75,000.

26 **III. REMOVAL REQUIREMENTS ARE SATISFIED**

27 15. This Notice of Removal is being filed within thirty days of DiscoverOrg being
28 served with the pleading pursuant to 28 U.S.C. § 1446.

16. To date, no Defendants have filed a responsive pleading in the action commenced in the Superior Court of the State of California, County of San Francisco, and no other proceedings have transpired in the state court action.

17. This Notice of Removal is being filed in the United States District Court for the Northern District of California, the district court of the United States for the district and division within which the state court action is pending, as required by 28 U.S.C. §§ 1446(a) and 1441(a).

18. Upon filing the Notice of Removal, DiscoverOrg will furnish written notice to Plaintiff's counsel, and will file and serve a copy of this Notice with the Court of the Superior Court of San Francisco County, pursuant to 28 U.S.C. § 1446(d).

19. WHEREFORE, Defendant hereby removes to the Court the above action pending against it in the Superior Court of California, County of San Francisco.

Dated: March 7, 2019

Respectfully submitted,

BAKER & HOSTETLER LLP

By: /s/ Michael R. Matthias

Michael R. Matthias

*Attorneys for Defendant
DiscoverOrg, LLC*

PROOF OF SERVICE

I am employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 11601 Wilshire Boulevard, Suite 1400, Los Angeles, CA 90025-0509. On March 7, 2019, I served a copy of the within document(s) in a sealed envelope, addressed as follows:

DEFENDANT'S NOTICE OF REMOVAL OF ACTION

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. and the transmission was reported as complete and without error.
 - VIA US MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the U.S. mail at Los Angeles, CA addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
 - VIA OVERNIGHT DELIVERY:** by placing the document(s) listed above in a sealed envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a **FEDEX** agent for delivery.
 - by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
 - by causing to be personally delivered the document(s) listed above to the person(s) at the address(es) set forth below.
 - VIA EMAIL:** by transmitting via electronic mail the document(s) listed above to the e-mail address(es) set forth below on this date and the transmission was reported as complete and without error.

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 7, 2019, at Los Angeles, California.

Denisse Aguilar

SERVICE LIST

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